FannieMae

Servicing Guide Announcement SVC-2012-06

April 25, 2012

Updates to Delinquency Management and Default Prevention Requirements

This Announcement describes policy changes and clarifications to several delinquency management and default prevention requirements, including:

- Electronic Submission of Borrower Response Package Documents
- Income Documentation for Employed Borrowers
- Determining Monthly Gross Income
- Loan Modifications for Mortgage Loans Secured by Leasehold Estates
- Property Valuation
- Executing and Recording Modification Agreements

Except as noted in this Announcement, all other requirements provided in the *Servicing Guide* as amended by Announcements remain unchanged. The policy changes and clarifications related to modifying mortgage loans addressed in this Announcement apply to Fannie Mae HAMP modifications, Fannie Mae standard modifications, and modification programs issued through a directive or delegation.

Effective Date

Unless otherwise indicated below, servicers are required to implement the policy changes in this Announcement immediately for all loans that become delinquent on or after the date of this Announcement. The policy changes applicable to mortgage loan modification requirements must be applied to all loans evaluated for a modification on or after the date of this Announcement.

Electronic Submission of Borrower Response Package Documents

***Servicing Guide,* Part VII, Section 205.04: Borrower Response Package; Section 609.03.02: Borrower Notices; and Section 609.03.06: Executing the HAMP Documents**

Fannie Mae encourages servicers to develop processes that will enable secure electronic submission of documentation between the borrower and the servicer. The *Servicing Guide* further states that all Borrower Response Package documents may be submitted to the servicer via electronic communication except for the Short Form Request for Individual Tax Return Transcript (IRS Form 4506T-EZ) or the Request for Transcript of Tax Return (IRS Form 4506-T), which the borrower must print, sign, and mail to the servicer.

Fannie Mae is updating this requirement to allow IRS Form 4506T-EZ or IRS Form 4506-T to be prepared, signed, and submitted to the servicer via electronic communication as long as the servicer may submit the form to the IRS in strict compliance with IRS instructions and any other applicable IRS requirements.

Income Documentation for Employed Borrowers

***Servicing Guide,* Part VII, Section 205.04: Borrower Response Package and Section 601.01: Requesting Preliminary Financial Information**

A complete Borrower Response Package includes:

- a completed *Uniform Borrower Assistance Form* (Form 710 or equivalent),
- income documentation as outlined in Form 710 based on income type,
- hardship documentation as outlined in Form 710 based on hardship type, and
- an IRS Form 4506T-EZ or IRS Form 4506-T signed by the borrower.

As indicated in Form 710, each borrower who is a salaried employee or hourly wage earner must include in the Borrower Response Package the most recent pay stub that reflects at least 30 days of year-to-date earnings for each borrower. Fannie Mae is clarifying that the pay stub(s) must reflect the most recent 30 days of earnings as well as the amount of year-to-date earnings for the current year.

As a reminder, the borrower's income must be supported by documentation that is not more than 90 days old as of the date the servicer first determines that the borrower submitted a complete Borrower Response Package. Income documentation obtained during a previous foreclosure prevention alternative evaluation, if applicable, may be relied upon for the purposes of verifying income provided that the documentation is not more than 90 days old at the time of the subsequent evaluation for a Fannie Mae foreclosure prevention alternative.

Determining Monthly Gross Income

***Servicing Guide,* Part VII, Section 602.02: Modifying Conventional Mortgage Loans and Section 609.02.05: Verifying Borrower Income and Occupancy Status**

For purposes of determining the borrower's monthly gross income when non-taxable income is used to qualify a borrower for a Fannie Mae HAMP modification, and the income and its tax-exempt status are likely to continue, the servicer **may** develop an "adjusted gross income" for the borrower by adding an amount equivalent to 25% of the non-taxable income to the borrower's income. Fannie Mae is updating this guidance to require that for Fannie Mae HAMP modifications, the servicer **must** develop an "adjusted gross income" for the borrower when non-taxable income is used.

These updated requirements, as provided below, will be effective for any mortgage loan being evaluated for a Fannie Mae HAMP modification on or after July 1, 2012. Additionally, Fannie Mae is adding the guidance provided below on determining the borrower's monthly gross income when underwriting a borrower for all other Fannie Mae mortgage loan modifications, effective for loans evaluated for a modification on or after July 1, 2012.

The borrower's "monthly gross income" is now defined as the borrower's monthly income amount before any payroll deductions; it includes wages and salaries, overtime pay, commissions, fees, tips, bonuses, housing allowances, other compensation for personal services, Social Security payments (including Social Security received by adults on behalf of minors or by minors intended for their own support), and monthly income from annuities, insurance policies, retirement funds, pensions, disability or death benefits, rental income, and other income such as adoption assistance. The servicer may not consider unemployment insurance benefits or any other temporary sources of income related to employment, such as severance payments, as part of the monthly gross income for mortgage loans being evaluated for a mortgage loan modification.

For the purposes of determining monthly gross income when non-taxable income is used to qualify a borrower for a modification, and the income and its tax-exempt status are likely to continue, the servicer **must** develop an "adjusted gross income" for the borrower by adding an amount equivalent to 25% of the non-taxable income to the borrower's income.

If the servicer can determine that the actual amount of federal and state taxes is more than 25% of the borrower's non-taxable income, the servicer may use that amount to develop the adjusted gross income.

Loan Modifications for Mortgage Loans Secured by Leasehold Estates

***Servicing Guide*, Part VII, Section 602.02.02: Conventional Mortgage Loan Modification Eligibility and Section 609.01: HAMP Eligibility**

Fannie Mae purchases or securitizes fixed-rate and adjustable-rate first mortgages that are secured by leasehold estates in areas in which this type of property interest has received market acceptance.

Fannie Mae is providing servicers with guidance on modifying mortgage loans when title to the property is held as a leasehold estate. To be eligible for a modification when the mortgage loan is secured by a property where the title is held as a leasehold estate, the term of the leasehold estate must not expire prior to the new maturity date of the modified mortgage loan.

In the event that the current term of the leasehold estate would expire prior to the new maturity date of the proposed modified mortgage loan, the term of the leasehold estate must be renegotiated to satisfy this requirement for the loan to be eligible for the modification.

If the term of the leasehold estate cannot be extended and the servicer believes, based on the borrower's circumstances, that a modification is appropriate, the servicer must submit the case using Fannie Mae's HomeSaver Solutions® Network for Fannie Mae to review.

Property Valuation

***Servicing Guide,* Part VII, Section 602.02.03: Property Valuation**

Fannie Mae currently requires the servicer to provide the borrower with a copy of the property valuation, or the opportunity to receive a copy, in connection with mortgage loan modifications. Fannie Mae is eliminating its requirement that the servicer must provide the borrower with a copy of the property valuation, or the opportunity to receive a copy, in connection with mortgage loan modifications.

As provided in the *Servicing Guide*, the servicer is responsible for ensuring that mortgage loan modifications comply with applicable laws. Accordingly, it is the servicer's responsibility to determine whether the Equal Credit Opportunity Act (ECOA) requires providing property valuations, or opportunities to obtain property valuations, in connection with mortgage loan modifications.

Executing and Recording Modification Agreements

***Servicing Guide,* Part VII, Section 602.02.07: Executing and Processing the Loan Modification Agreement and Section 609.03.10: Recording the Mortgage Loan Modification**

Currently, Fannie Mae requires servicers to have the *Loan Modification Agreement* executed by the borrower(s) in recordable form if the property is located in the State of New York or in Cuyahoga County, Ohio. Furthermore, servicers are required to record the executed *Agreement* if the property is located in Cuyahoga County, Ohio.

Fannie Mae is eliminating these requirements. It will remain the servicer's responsibility, however, to ensure that where required by applicable state or local laws, the *Loan Modification Agreement* is executed by the borrower(s) in recordable form and recorded. All other requirements for executing, processing, and recording *Loan Modification Agreements* remain unchanged and are provided below.

For all mortgage loans that are modified, including Fannie Mae HAMP modifications, the servicer must ensure that the modified mortgage loan retains its first-lien position and is fully enforceable.

Effective for loans evaluated for a modification or a mortgage loan converting from a Trial Period Plan to a permanent modification on or after the date of this Announcement, the *Loan Modification Agreement* must be executed by the borrower(s) and, in the following circumstances, must be in recordable form:

- if state or local law requires a modification agreement be recorded to be enforceable;
- if the amount capitalized is greater than $50,000 (aggregate capitalized amount of all modifications of the mortgage loan completed under Fannie Mae's mortgage modification alternatives);
- if the final interest rate on the modified mortgage loan is greater than the pre-modified interest rate in effect on the mortgage loan;
- if the remaining term on the mortgage loan is less than or equal to ten years and the servicer is extending the term of the mortgage loan more than ten years beyond the original maturity date; or
- if the servicer's practice for modifying mortgage loans in the servicer's portfolio is to create modification agreements in recordable form.

In addition, to retain the first-lien position, servicers must:

- ensure all real estate taxes and assessments that could become a first lien are current, especially those for manufactured homes taxed as personal property, personal property taxes, condominium/HOA fees, utility assessments (such as water bills), ground rent, and other assessments;
- obtain a title endorsement or similar title insurance product issued by a title insurance company if the amount capitalized is greater than $50,000 (aggregate capitalized amount of all modifications of the mortgage loan completed under Fannie Mae's mortgage modification alternatives); or if the final interest rate on the modified mortgage loan is greater than the interest rate in effect prior to modification of the mortgage loan; and
- record the executed *Agreement* if
  - state or local law requires the modification agreement be recorded to be enforceable;
  - the amount capitalized is greater than $50,000 (aggregate capitalized amount of all modifications of the mortgage loan completed under Fannie Mae's modification alternatives);
  - the final interest rate on the modified mortgage loan is greater than the interest rate in effect prior to modification of the mortgage loan; or
  - the remaining term on the mortgage loan is less than or equal to ten years and the servicer is extending the term of the mortgage loan more than ten years beyond the original maturity date.

*****

Servicers should contact their Servicing Consultant, Portfolio Manager, or Fannie Mae’s National Servicing Organization’s Servicer Solution Center at 1-888-FANNIE5 (888-326-6435) with any questions regarding this Announcement.

Gwen Muse-Evans
Vice President
Chief Risk Officer for Credit Portfolio Management